

State of South Dakota

EIGHTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2013

472U0281

SENATE APPROPRIATIONS

ENGROSSED NO. **HB 1096** - 02/27/2013

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Gosch, Feinstein, and Lust and Senators Rave and Brown

1 FOR AN ACT ENTITLED, An Act to provide for the transfer and appropriation of funds upon
2 the occurrence of certain events and to assist rural counties in the recruitment of attorneys.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The Unified Judicial System may establish a pilot program to assist rural counties
5 in recruiting attorneys.

6 Section 2. A county eligible to participate in the recruitment assistance pilot program is any
7 county in this state which:

8 (1) Has a population of ten thousand persons or less;

9 (2) Agrees to provide its portion of the incentive payment pursuant to the provisions of
10 this Act; and

11 (3) Is determined to be eligible by the Unified Judicial System.

12 Each interested county shall apply to the Unified Judicial System. Before making a
13 determination of eligibility, the Unified Judicial System shall conduct a county assessment
14 designed to evaluate the county's need for an attorney and its ability to sustain and support an



1 attorney. The Unified Judicial System shall maintain a list of counties that have been assessed
2 and that are eligible for participation in the recruitment assistance pilot program established by
3 this Act. The Unified Judicial System may revise any county assessment or conduct a new
4 assessment as necessary to reflect any change in conditions within a county.

5 Section 3. In making the selection of the participating counties, the Unified Judicial System
6 shall be guided by:

- 7 (1) Demographics of the county;
- 8 (2) Age and number of the current membership of the county bar;
- 9 (3) Recommendation of the presiding circuit judge;
- 10 (4) Programs of economic development within the county;
- 11 (5) Geographical location to other counties receiving assistance;
- 12 (6) Evaluation of the attorney seeking assistance under this program;
- 13 (7) Existing or previous ties of the applicant to the county; and
- 14 (8) Prior participation by the county in this pilot program.

15 Section 4. An attorney licensed to practice in South Dakota is eligible to participate in the
16 recruitment assistance pilot program established pursuant to this Act. The attorney shall agree
17 to practice in an eligible rural county for at least five years. No more than a total of sixteen
18 attorneys may participate in the program. No attorney may be added to the program after July 1,
19 2017.

20 Section 5. Any attorney who fulfills the requirements of the recruitment assistance pilot
21 program established pursuant to this Act, is entitled to receive an incentive payment in five
22 equal annual installments, each in an amount equal to ninety percent of the University of South
23 Dakota School of Law resident tuition and fees as determined on July 1, 2013.

24 Section 6. Any agreement for the payment of recruitment assistance pursuant to this Act

1 shall obligate the rural county served by the attorney to provide thirty-five percent of the total
2 amount of the incentive payment in five equal annual installments. After the rural county
3 certifies to the Unified Judicial System that it has paid the attorney the annual amount for which
4 it is obligated and the State Bar of South Dakota or its designee has paid fifteen percent of the
5 annual installment to the Unified Judicial System, the Unified Judicial System shall pay to the
6 attorney the remaining balance of the total installment payment amount for that year. The
7 Unified Judicial System shall pay the required amount out of funds appropriated in section 10
8 of this Act and the funds received from the State Bar of South Dakota pursuant to this Act. A
9 county may prepay its portion of the incentive payment at any time during the five-year period.

10 If the attorney has received a payment pursuant to this Act and subsequently breeches the
11 agreement, the attorney shall repay all sums received pursuant to this Act under the terms and
12 conditions set by the Unified Judicial System. Failure to make repayment is grounds for
13 discipline by the State Bar of South Dakota and the Supreme Court.

14 Section 7. Any rural county may appropriate funds for the purpose of carrying out the
15 provisions of this Act. A rural county may enter an agreement with any county, municipality,
16 school district, or nonprofit entity to assist the county in carrying out the provisions of this Act.

17 Section 8. No recruitment assistance agreement entered into pursuant to the provisions of
18 this Act is effective until it is filed with and approved by the Unified Judicial System. The
19 agreement shall provide that the attorney practice law full-time in the eligible county for at least
20 five years. The Supreme Court may promulgate rules necessary to implement the provisions of
21 this Act pursuant to chapter 1-26.

22 Section 9. No person may participate in the program established pursuant to the provisions
23 of this Act if the person has previously participated in the program, or any other state or federal
24 scholarship, loan repayment, or tuition reimbursement program that obligates the person to

1 provide attorney services within an underserved area.

2 Section 10. There is hereby appropriated from the general fund the sum of four hundred
3 seventy-five thousand dollars (\$475,000), or so much thereof as may be necessary, to the
4 Unified Judicial System other fund fiduciary account to provide payments described in section
5 5 of this Act.

6 Section 11. The Chief Justice shall approve vouchers and the state auditor shall draw
7 warrants to pay expenditures authorized by this Act.

8 Section 12. Any amounts appropriated in this Act not lawfully expended or obligated shall
9 revert in accordance with the procedures prescribed in chapter 4-8.

10 Section 13. The Unified Judicial System shall annually file with the Legislative Research
11 Council a report on the status of the program.

12 Section 14. In order to fully fund the incentive payment, the Unified Judicial System is
13 specially authorized to receive from the State Bar of South Dakota fifteen percent of the total
14 amount of an incentive payment authorized pursuant to this Act in five equal annual
15 installments and place the funds in the Unified Judicial System other fund fiduciary fund.